

EXECUTIVE SUMMARY

Created thirty-five years ago under President Nixon, the Legal Services Corporation (“LSC”) helps poor families obtain access to the courts when they face pressing civil legal matters. More than 900,000 people are helped each year by the lawyers in LSC-funded programs across the country. With LSC-funded lawyers at their side, people can obtain protection from abusive spouses, retain custody of their children, fight unlawful employment practices and even save their homes from foreclosure. But a set of federal funding restrictions is severely undercutting this important work, and doing so in the midst of an unprecedented national financial crisis. The time has come to eliminate the most severe of the LSC funding restrictions.

A sign of the program’s success in representing poor people, LSC came under attack in the mid-1990’s as part of the extraordinary conservative backlash that, at one point, led to the shutdown of the federal government. Not only was the federal government’s funding of LSC cut by one-third, but also an onerous set of restrictions was imposed on the independent non-profit organizations that receive LSC funding. The funding cuts, and the funding restrictions, had devastating effects. They left LSC seriously underfunded and sharply circumscribed.

The funding restrictions cut especially deep. Unlike anyone able to hire a private attorney, people relying on a lawyer in an LSC-funded program cannot claim an award of attorneys’ fees even when consumer protection or civil rights laws authorize fee awards for the specific purpose of encouraging enforcement of the law and penalizing wrongdoers. They cannot participate in class action lawsuits even when doing so offers the best and most efficient way to obtain relief from widespread illegal practices, such as predatory lending or foreclosure rescue scams. They cannot lobby for policy reform either – a general ban prohibits their lawyers from reaching out to legislators to offer advice on how to fix federal, state, or local laws.

In short-sighted attacks on prisoners and immigrants, the restrictions banned these individuals from obtaining the representation offered by lawyers in LSC programs. Incarcerated people cannot obtain the LSC-funded help they need to tackle common legal problems – with housing, debt, and familial relations – that threaten their successful reentry into society. Certain groups of lawfully admitted and fully documented immigrants are barred from obtaining LSC-funded help even with concerns unrelated to their immigration status, such as those related to their work conditions, wages, and housing.

In a virtually unprecedented overreach, Congress applied this set of restrictions not just to the funds it appropriates, but to all of the money that an LSC grantee possesses. This poison pill restriction on state, local and private funds annually ties up over \$490 million in non-LSC funding, or 58% of the funds at LSC-recipient organizations. The restriction denies state, local, and private funders control over how their money is spent, deters non-federal spending on legal services, and wastes scarce resources when states are forced to set up duplicative, separate entities to “unrestrict” at least a portion of their funds.

In the thirteen years since they were implemented, the restrictions have effectively denied countless people equal access to justice. They have squandered funds on duplicate costs that could have gone toward serving more in need. They have prevented victims of predatory lending and consumer fraud from obtaining their full measure of justice. And by shutting down legislative

and administrative advocacy, they have prevented elected representatives and government officials from learning about the legitimate policy needs of poor communities.

In light of the harms the restrictions have caused and the unprecedented need for legal services amid the economic crisis, **Congress should take the following, cost-free steps:**

1. Remove the application of the LSC restrictions to state, local, private and other non-LSC funds that legal aid organizations receive.
2. Remove restrictions on LSC funds that interfere with the ability of legal services attorneys to protect their clients' rights, that is, eliminate the restrictions: on seeking attorneys' fee awards; on class actions; on legislative and administrative advocacy, and on solicitation.
3. Remove restrictions that prohibit representation of documented immigrants and people in prison who need help with reentry matters.

Such a solution would leave certain federal restrictions in place while ensuring that legal aid organizations are able to help their clients most efficiently and effectively. In combination with increased funding for legal services, the removal of these select restrictions would expand access to justice at a time of massive need.